(4)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR

CHHATTISGARH

W.P.NO.1151 OF 2003

PETITIONER : District Cooperative Central Bank Ltd. Bilaspur.(C.G.)
Through : The Chief Executive Officer, District, Cooperative Central Bank, Ltd. Bilaspur (C.G.)

VERSUS

RESPONDENTS : 1. Joint Registrar, Co-operative Societies, Raipur Labhandi (C.G.)

2. Deputy, Registrar, Co-operative Societies, Bilaspur (C.G.)

3. Kunjan Lal S/o Shri Muni ji Dewangan, Kilaward, Juna Bilaspur, Tah. And Distt.- Bilaspur (C.G.)

P. R. No. - 5884/03
Presented by Shri D.P. Pathak
dated 13.03.03

PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF A WRIT OF APPROPRIATE NATURE OR DIRECTION OR ORDER OR LIKE NATURE.

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P. No. 1151/03 ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

20.9.2005

Shri S. L. Kurmi, counsel for the petitioner.

Shri Prafull Bharat counsel for the Respondent No.3.

Learned counsel for the petitioner submits that the impugned order dated 05.07.2002 passed in Case No. 28/55 (2)/2000 by the Deputy Registrar, Co-operative Societies, Bilaspur and the order dated 26.11.2002 passed in Appeal No. 78-25/2002, by the Joint Registrar, Co-operative Societies, Chhattisgarh, Raipur are perverse because the authorities below have not considered the fact that the serious allegation of embezzlement to the tune of Rs. 92,920=41 was alleged against the respondent No. 3. Learned counsel, therefore, prays that the impugned orders be quashed.

Learned counsel for the respondent No. 3 submits that the impugned order of termination dated 28.06.2000 was passed without holding a departmental inquiry, before terminating the respondent No. 3 from service, in contravention of Rule 58 (B) of the Chhattisgarh Ke Zila Sahakari Kendriya Bank Karmachari Seva (Niyojan, Nibandhan Tatha Unki Karya Stithi) Niyam, 1982.

The Deputy Register has rightly found that the termination order was unconstitutional in view of the fact that the statutory provision of holding a departmental inquiry was not complied with. The Joint Registrar in appeal has confirmed the finding of the Deputy Registrar in regard to the

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मामला क्रमांक W.P.No. 1151/2003 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

setting aside of the termination order and reinstatement of the respondent No. 3. With regard to the back wages, the Joint Registrar without considering the relevant facts as to whether the respondent No. 3 was gainfully employed elsewhere or not, has granted 100% back wages on the principle that quashing of termination follows 100% back wages as consequential relief.

It is settled principle of law that in all cases where the termination of the employee is quashed, the consequential relief of 100% back wages would depend on the facts and circumstances of the case. The authorities/tribunals must consider other relevant facts, whether the employee was gainfully employed elsewhere or not, the period of absence from service and the amount involved in payment of 100% back wages. Since the authorities/ tribunals have not considered the aforesaid facts while granting 100% back wages, the order of the Joint Registrar dated 26.11.2002 to the extent of grant of 100% back wages deserves to be set aside.

The impugned orders passed by the authorities/tribunals need no interference with regard to the reinstatement of the respondent No. 3 as the termination order was passed without holding any departmental inquiry in view of the provisions of Rule 58 (B) of the Rules, 1982.

After hearing learned counsel for the parties and perusing the records, I am of the view that the order dated

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W.P. No. 1151/03

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

05.07.2002 passed by the Deputy Registrar, Co-operative Socialites, Bilaspur and the order dated 26.11.2002 passed by the Joint Registrar, Co-operative Societies, Raipur are valid with regard to the quashing of the termination order and directing reinstatement of the respondent No. 3. So far as the back wages are concerned, since all the above stated relevant facts were not considered while granting 100% back wages, the finding of the Joint Registrar to the extent of grant of 100% back wages is set aside. The matter is remanded back to the Deputy Registrar, Co-operative Societies, Bilaspur for considering the case of the respondent No. 3 with regard to grant of back wages, after hearing both the parties, within a period of two months from the date of receipt of this order.

The parties will present themselves before the Deputy Registrar, Co-operative Societies, Bilaspur on 28 September, 2005.

In view of the forgoing, the petition is allowed in part to the extent indicated hereinabove. No order as to costs.

Certified copy as per Rules.

Sd/-
Satish K. Agnihotri
Judge

SP/FS/2005 - 20,000